

**ENTERED**

August 30, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**BERI DAVE,  
"Plaintiff,"

v.

DAVID C. LAIRD, *et al.*,  
"Defendants."§  
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Civil Action No. 1:20-cv-00209

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Before the Court are these pleadings: Plaintiff's "Complaint for Violations of Civil Rights" (Dkt. No. 1) and "More Definite Statement of All Claims" (Dkt. No. 54), Defendants City of South Padre Island, David C. Laird, and Claudine O'Carroll's "Motion to Dismiss Pursuant to Rule 12 and Alternatively Motion for Summary Judgment" ("Defendants' MTD") (Dkt. No. 82)<sup>1</sup>, "Magistrate Judge's Report and Recommendation" ("R&R") (Dkt. No. 105), and Plaintiff's "Response to Magistrate Judge's Report and Recommendation" ("Objections") (Dkt. No. 109).

A party may contest the proposed findings and conclusions in a report and recommendation by filing written objections within fourteen days of being served with a copy of the report and recommendation. party's objections to portions of a report and recommendation entitle him to *de novo* review by the Court. *See* 28 U.S.C. § 636(b)(1). Objections must specifically identify findings or recommendations in the R&R. The court need not consider frivolous, conclusive, or general objections. *See Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987). Proposed findings and recommendations to which no objections were filed are reviewed for clear error. *See* 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 150-53, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985); *Quinn v. Guerrero*, 863 F.3d 353, 358 (5th Cir. 2017).

Plaintiff objected to the R&R. Dkt. No. 109. But Plaintiff's objections<sup>2</sup> are conclusive and do not address any plausible claim for relief. In summary, Plaintiff's objections are a general objection to the R&R. The Court need not consider such objections and has therefore reviewed the

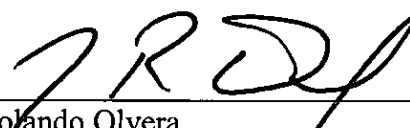
<sup>1</sup> The Court dismissed Plaintiff's claims against David C. Laird. *See* Dkt. No. 93. The only claims remaining are Plaintiff's claims against Jaime Rodriguez and his claims against the City of South Padre Island and Chief of Police Claudine O'Carroll, which depend on the conduct of Jaime Rodriguez. *See* Dkt. Nos. 62, 93.

<sup>2</sup> When considering a Rule 12(b)(6) motion, the court's review is limited to the complaint, any documents attached to the complaint, and any documents attached to the motion to dismiss that are central to the claim and referenced by the complaint. *Lone Star Fund V (U.S.), L.P. v. Barclays Bank PLC*, 594 F.3d 383, 387 (5th Cir. 2010).

R&R and the record for clear error. *See Stafford v. Berryhill*, 2019 U.S. Dist. LEXIS 105778 (W.D.T.X 2019) (citing *Battle*, 834 F.2d at 421; *see also* Fed. R. Civ. P. 72 advisory committee's note) ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation."). Finding no clear error, the R&R is **ADOPTED**.

Defendants' MTD (Dkt. No. 82) is **GRANTED**. All claims against Defendants' Jaime Rodriguez, City of South Padre Island, and Claudine O'Carroll are **DISMISSED**. The Clerk of Court is **ORDERED** to close this case.

Signed on this 30<sup>th</sup> day of August, 2022.

  
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Rolando Olvera  
United States District Judge